
REMARKS

In the Office Action mailed December 5, 2005, a restriction of Applicants' invention was required as between:

Group I (Claims 1-31, 36-45 and 69-71), which the Examiner characterizes as drawn to dry compositions for admixture with water comprising polyethylene glycol, ascorbic acid, an alkali metal or alkaline earth metal sulphate and, optionally, one or more electrolytes, and kits or preparations thereof; and

Group II (Claims 32-35, 46-68, 72-73), which the Examiner characterizes as drawn to methods of cleansing the colon of a mammal.

The Examiner reasoned as follows:

"Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP §806.05(h)). In the instant case, the methods of cleansing the colon of a mammal may be accomplished using any one or more of the known, conventional type therapies in the art, including: (i) traditional laxative compounds; (ii) enemas, such as those containing sodium phosphate or mineral oil; (iii) orthostatic intestinal lavage using an electrolyte solution; or (iv) a solution of magnesium citrate and sodium picosulphate, among others." (Office Action, page 2.)

Applicants traverse this requirement and request consideration of all claims together in this application for the reasons set forth below.

Applicants acknowledge the rule for determining whether a product and its process of use are distinct set forth in the quotation from the Examiner above. However, Applicants note the process claims, e.g., Claim 32, specifically calls for the use, and recites the actual product specifications, of the product recited in Claim 1. Accordingly, Applicants note that the only way the Examiner can submit that the colon cleansing methods recited in Claims 32-35, 46-68, 72-73 can be accomplished using traditional laxative compounds is to directly ignore the limitations of the claims themselves.

It is submitted that a search of the art relevant to the Group I claims will reveal all the art relevant to the Group II claims, and vice versa. Applicants note that the classification of the respective restriction

groups are identical. Accordingly, examination of all claims together will be more efficient and less burdensome for both Applicants and the PTO.

Conclusion and Provisional Election

Applicants submit that in view of the foregoing remarks all the claims herein are seen to relate to a single inventive concept, and the claims are in a form and are of the sort that is properly viewed as relating to a single invention that should not be restricted. Applicants request that the restriction requirement of the Office Action of December 5, 2005 be reconsidered and withdrawn.

Although, for reasons set forth above, Applicants believe that the restriction is improper and uncalled for, and without in any way acquiescing in the reasons for the requirements set forth in the Office Action, but in order to be fully responsive to the Office Action, Applicants provisionally elect for examination the claims of Group I, i.e., Claims 1-31, 36-45 and 69-71.

Rejoinder

Applicants note that method Claims 32-35, 46-68, 72-73 are subject to rejoinder upon the allowance of product claims. As noted by the Examiner and set forth in the MPEP:

"[I]f applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined....Process claims which depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance." MPEP §821.04.

Applicants submit that Claims 32-35, 46-68, 72-73 currently incorporate the limitations of the product claims, *see, e.g.*, Claim 1. If needed, Applicants will further amend Claims 32-35, 46-68, 72-73 to incorporate any new limitations proposed during the prosecution of the product claims.

Respectfully submitted,



Leon R. Yankwich, Reg. No. 30,237
Michael R. Wesolowski, Reg. No. 50,944
Attorneys for Applicants
YANKWICH & ASSOCIATES
201 Broadway
Cambridge, Massachusetts 02139
telephone: 617-374-3700
telecopier: 617-374-0055

Certificate of Mailing

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service under 37 CFR 1.8, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

January 5, 2006
date

Melanie A. McFadden
Melanie McFadden